

S  
328.3  
L13rti  
1984

**PLEASE RETURN**  
**Two Insurance Issues:**  
**Gender Discrimination**  
**and**  
**Auto Liability**  
**Insurance Enforcement**

**A Report to the 49th Legislature**  
**Joint Interim Subcommittee No. 3**

**December 1984**

STATE DOCUMENTS COLLECTION

OCT 4 - 1985

MONTANA STATE LIBRARY,  
1515 E. 6th AVE.  
HELENA, MONTANA 59620



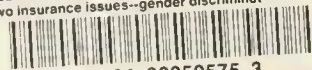
**Montana Legislative Council**

Published by  
**MONTANA LEGISLATIVE COUNCIL**  
Room 138  
State Capitol  
Helena, Montana 59620  
(406) 444-3064

MONTANA STATE LIBRARY

S 328.3 L13rt 1984 c.1

Two insurance issues--gender discriminat



3 0864 00050575 3

TWO INSURANCE ISSUES:  
GENDER DISCRIMINATION  
AND  
AUTO LIABILITY INSURANCE ENFORCEMENT

A REPORT TO THE 49th LEGISLATURE

JOINT INTERIM SUBCOMMITTEE NO. 3

December 1984

Published by

MONTANA LEGISLATIVE COUNCIL

Room 138

State Capitol

Helena, Montana 59620

(406) 444-3064



MEMBERSHIP

JOINT INTERIM SUBCOMMITTEE NO. 3

Representative Ted Neuman, Chairman	Senator A. Reed Marbut, Vice Chairman
Representative Jay Fabrega	Senator M. K. Daniels
Representative Chester Solberg	Senator J. Donald Ochsner
Representative Dennis Veleber	Senator Thomas E. Towe

MONTANA LEGISLATIVE COUNCIL

Representative Rex Manuel, Chairman

Diana S. Dowling, Executive Director

Robert B. Person, Director,  
Division of Research and Reference Services

Committee Staff

Researcher	Andrea Merrill
Attorney	Gregory J. Petesch
Secretary	Helen MacPherson



TABLE OF CONTENTS

	<u>Page</u>
House Joint Resolution No. 29. . . . .	i
Summary of Recommendations . . . . .	iii
Introduction to the Issues Raised in HJR 29 . . . . .	1
Legislation and Litigation on Gender Discrimination in Insurance Practices. . . . .	3
The Montana Legislation . . . . .	3
Legislation, Litigation, and Studies in Other States . . . . .	4
Status of Federal Legislation . . . . .	6
Court Decisions on Gender Discrimination. . . . .	7
Reference Notes . . . . .	11
Subcommittee Deliberations . . . . .	13
Reports and Testimony Referenced in Deliberations . . . . .	21
Enforcement of the Motor Vehicle Liability Insurance Law. . . . .	23
Legislative History . . . . .	23
Main Provisions of the Law. . . . .	25
Related Laws. . . . .	28
An Overview of Liability Laws in Other States . . . . .	30
Enforcement Methods of Other States . . . . .	32
Random Sampling as an Enforcement Mechanism . . . . .	33
Subcommittee Deliberations. . . . .	37
Reference Notes . . . . .	41





APPENDICES

Appendix

House Bill 358 . . . . .	A
Conclusions from Michigan Insurance Bureau Report on Unisex Auto Rating . . . .	B
Conclusions from Minnesota Department of Commerce Study on Unisex Insurance . . .	C
Communication from Larry Majerus, Motor Vehicle Division, Department of Justice, on Increased Enforcement of the Motor Vehicle Liability Law . . . . .	D
<u>LC 382</u> AN ACT TO ALLOCATE TO THE HIGHWAY PATROLMEN'S RETIREMENT PENSION TRUST FUND 10 PERCENT OF ALL FINES AND FORFEITURES COLLECTED AS A RESULT OF CITATIONS BY HIGHWAY PATROLMEN FOR VIOLATIONS OF THE MANDATORY MOTOR VEHICLE LIABILITY INSURANCE LAW; AMENDING SECTIONS 19-6-401 AND 61-12-701, MCA. . . .	E



## HOUSE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE INSURANCE LAWS OF THE STATE OF MONTANA AND REQUIRING A REPORT OF THE FINDINGS OF THE STUDY TO THE 49TH LEGISLATURE.

WHEREAS, numerous bills pertaining to insurance have been introduced in the 48th Legislature; and

WHEREAS, the area of insurance law is complex and cannot be adequately considered by the Legislature during the time constraints of a legislative session; and

WHEREAS, the Legislature is again faced with finding a solution to problems caused by evasion of the mandatory motor vehicle liability insurance law; and

WHEREAS, the issue of the existence of sex discrimination in the insurance industry merits legislative attention because discrimination in commerce is forbidden by the Equal Dignities Clause of the Montana Constitution; and

WHEREAS, the Legislature desires to eliminate, in a manner that is fair both to the consumer and the insurer, distinctions in the insurance industry that are based upon sex and wishes to determine how this distinction can be eliminated in an equitable manner; and

WHEREAS, the Legislature has received conflicting information on the long-term effects of elimination of these distinctions; and

WHEREAS, the Legislature may not be able to anticipate and resolve or mitigate any potential adverse effects of such legislation; and

WHEREAS, the issue of the existence of economic inequities in motor vehicle liability coverage merits legislative attention because motor vehicle liability coverage is compulsory under Montana law; and

WHEREAS, the fairness and adequacy of insurance coverage made available by the insurance industry in Montana must be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That an appropriate interim committee be assigned to study the marketing practices of the insurance industry and the insurance laws of the State of Montana. The study must consider all aspects of insurance, including but not limited to an examination of:

(1) alternative mechanisms to enforce the mandatory motor vehicle liability coverage law;

(2) the difference, if any, in the scope, coverage, terms, rates, and benefits offered to consumers in all areas of the insurance industry on the basis of their sex;

(3) the current availability in Montana of motor vehicle liability coverage of operators in addition to or instead of coverage of the vehicles they operate;

(4) the alternatives, benefits, liabilities, and time reasonably necessary to implement:

(a) a requirement that in the marketing of insurance there be no distinction made based on the insured's sex; and

(b) a requirement that motor vehicle liability insurance coverage be made available to an operator without regard to motor vehicles that he owns or operates;

(5) the results in any other jurisdiction of imposition of either of the requirements set forth in subsection (4); and

(6) any other selected insurance issues which the committee considers pertinent and timely.

BE IT FURTHER RESOLVED, that the committee report the findings of the study, including findings specifically related to (1) through (5), to the 49th Legislature and, if necessary, draft legislation to implement its recommendations.



## SUMMARY OF RECOMMENDATIONS

Joint Interim Subcommittee No. 3 recommends that the 49th Legislature enact LC 382, a bill to allocate to the highway patrolmen's retirement pension trust fund 10 percent of all fines and forfeitures collected as a result of citations by highway patrolmen for violations of the mandatory motor vehicle liability insurance law; amending sections 19-6-401 and 61-12-701, MCA.



INTRODUCTION TO THE ISSUES RAISED IN HJR 29

House Joint Resolution 29 requested a study of the "marketing practices of the insurance industry" and the insurance laws of Montana. This broad prescription was brought into sharper focus by instructions to scrutinize:

1. Alternative mechanisms to enforce the mandatory motor vehicle liability insurance law.

The study resolution suggested that evasion of the mandatory motor vehicle liability insurance law was a continuing problem in Montana and that practical methods of enforcement should be considered.

2. The difference, if any, in the scope, coverage, terms, rates, and benefits offered to consumers in all areas of the insurance industry on the basis of their gender.

House Bill 358 of the 1983 session prohibited discrimination on the basis of gender or marital status in the issuance or operation of insurance policies and retirement plans. The effective date of the legislation was delayed until October 1, 1985.

The study resolution states that the Legislature "desires to eliminate" gender-based distinctions in the marketing of insurance ". . . in a manner that is fair to both the consumer and the insurer". HJR 29 then stressed that the Legislature received conflicting information on

the long-term effects of elimination of these distinctions and that the Legislature was not able, at that time of the session, to anticipate and resolve any potential adverse effects of legislation barring gender-based distinctions. This language suggests that the study focus on the consequences of the enactment of HB 358 for the insurance industry and for the consumer. To judge the effects of the legislation, it was essential to monitor the pending federal legislation, court cases, and industry reactions on the issue and relate that action to the Montana situation.

3. The current availability in Montana of motor vehicle liability coverage of operators in addition to or instead of coverage of the vehicles they operate.

HJR 29 lacks other reference to this concern, but interest stemmed from proposed legislation in the last two sessions and HJR 16, a study resolution that directly addressed the issue but was tabled in the Senate Business and Industry Committee in favor of this broader resolution.

The Subcommittee learned that very little information was available on this topic and that this type of coverage is not commonly available in other states at this time. The Subcommittee had agreed to consider this topic if time permitted, but was unable to do so as a result of more extensive study of the other insurance topics and other study resolutions.



LEGISLATION AND LITIGATION ON  
GENDER DISCRIMINATION IN INSURANCE PRACTICES

Introduction

House Joint Resolution 29 specifically requests an examination of gender-based distinctions in the scope, coverage, terms, rates, and benefits offered to consumers in all areas of the insurance industry. As an introduction to this study question, this report will provide:

- background on Montana's recent legislation prohibiting sex discrimination in insurance practices;
- legislation and litigation on this issue in other states;
- a review of action on proposed federal legislation; and
- the implications of recent court decisions regarding sex discrimination in insurance and pension plans.

In addition, the report will summarize and reference major testimony and studies presented to the Subcommittee on this issue.

The Montana Legislation

Montana achieved notoriety, with the 1983 legislative enactment of HB 358, as the first state in the nation to pass a comprehensive law prohibiting sex and marital

status discrimination in the issuance and operation of insurance policies and retirement plans.<sup>1</sup> The bill specifically forbids sex or marital status discrimination with regard to insurance rates or premiums and pension payments or benefits. See Appendix A for HB 358.

House Bill 358 was amended in the House to become effective October 1, 1985, and was amended in the Senate to apply only to plans issued after that date. The insurance industry argued that a delayed effective date would allow time for development of gender-neutral insurance rates and retirement benefit plans. The prospective applicability date was considered necessary in light of strong Montana constitutional protection of existing contracts.<sup>2</sup>

Proponents of HB 358 felt that a firm foundation for banning sex discrimination in insurance practices can be found in the Individual Dignity section of the Montana Constitution.<sup>3</sup> Under that section, no person, firm, corporation, or institution may discriminate against an individual on the basis of sex. Opponents of HB 358 argued that gender distinctions in insurance and retirement plans actually contribute to fairer treatment of the sexes in that the cost of insurance to each person is directly related to the degree of risk that the person adds to the risk pool.<sup>4</sup>

#### Legislation, Litigation, and Studies in Other States

Montana has by far the nation's most sweeping "unisex" insurance law, but other states have also addressed this issue in the last few years. The following four states have banned sex discrimination in automobile

insurance rating: Massachusetts (1978); Michigan (1979); Hawaii (1974); and North Carolina (1977).<sup>5</sup> Eleven states prohibit discrimination in issuance and renewal of insurance plans. To date in 1984, eleven state legislatures have considered but failed to approve comprehensive unisex insurance legislation similar to Montana's.

In 1978, the Michigan Supreme Court, in Shavers v. Kelley, expressed concern that the state law mandating motor vehicle insurance coverage subjected citizens to discriminatory insurance rating practices without due process protection.<sup>6</sup> As a result of the court mandate for change, the Michigan Legislature passed the Essential Insurance Act of 1979, which included a prohibition on the use of gender and marital status for setting automobile insurance rates. The Michigan Insurance Bureau recently studied the effects of the law.<sup>7</sup> The results of the study were presented to the Subcommittee and are summarized in Appendix B.

The Minnesota Department of Commerce published a report in June 1984 that is considered to be a well-balanced presentation of the issues surrounding unisex insurance rates.<sup>8</sup> The study analysis centers on: social and public policy considerations; the economic impact of eliminating gender as a rating variable; a thorough analysis of risk classification and discrimination in the marketing of insurance; and the unisex impact on all lines of insurance. The conclusions of the report as presented to the Subcommittee are in Appendix C.

## Status of Federal Legislation

Congressional committees have been debating the question of gender discrimination in insurance since the 96th Congress in 1980. The most recent Senate version, S.372, sponsored by Senator Robert Packwood (R-Oregon), Chairman of the Committee on Commerce, Science, and Transportation, was never reported out of that committee after extensive hearings in the spring of 1983.

The Nondiscrimination in Insurance Act, HR 100, sponsored by Representative John Dingell (D-Michigan), was reported out of the House Energy and Commerce Committee on March 28, 1984, but is yet to receive the first floor vote. The Committee had amended the bill to address several insurance industry concerns:

- Although the bill forbids the use of probability factors based on gender or race, it would exempt any line of insurance that isn't offered in connection with employment;
- It reaffirms the role of the states in regulating the business of insurance;
- It provides that equalization of insurance benefits will not require retroactive payments; and
- It does not require "topping off" as a means for equalizing benefits.

Prior to the amendments, women's and civil rights groups had been encouraged by the Supreme Court's

Norris decision of July 1983, which made it clear that private and public employers could not use gender-based actuarial tables in determining employee pension benefits.<sup>9</sup> Advocates of the original HR 100 have withdrawn support for the amended legislation but have vowed to pursue the issue of unisex insurance in the next Congress.

#### Court Decisions on Gender Discrimination

On July 6, 1983, the U.S. Supreme Court ruled in the case of Arizona Governing Committee v. Norris that it is unlawful discrimination for an employer to offer its employees a retirement benefit option in which women receive lower monthly retirement benefits than men who have made the same contribution.<sup>10</sup> The case stemmed from an Arizona state employee's contention that the optional deferred compensation pension plan offered by the state violated Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race and sex.

The decision addressed the common insurance industry practice of providing life annuity plans which pay women smaller monthly benefits than men because mortality tables show that women tend to live longer than men and thus collect benefits over a longer period of time. The high court, in a 5 to 4 decision, rejected this contention, saying, "An individual woman may not be paid lower benefits simply because women as a class live longer than men". The Norris decision relied on a 1978 Supreme Court ruling in Los Angeles Department of Water and Power v. Manhart that it is a violation of Title VII of the Civil Rights Act of 1964 for an employer to require women to pay larger

contributions than men to a retirement plan in order to receive equal monthly benefits and to compensate for the greater life span of women.<sup>11</sup> In Norris, the justices cushioned the potential financial impact on employers and on the insurance industry by ruling that the decision applies only to contributions made into employer-sponsored retirement plans after August 1, 1983.

The majority of the nation's 700,000 employer-sponsored retirement plans -- about 85% according to the American Council of Life Insurance -- are gender-neutral plans that make no differentiation between men and women in either contributions required or benefits paid.<sup>12</sup> The state of Montana's mandatory public employee retirement plans (PERS, TRS, etc.) have been gender-neutral for a number of years and will not be affected by the Norris decision.<sup>13</sup>

Under Montana's deferred compensation statutes, public employees who participate may choose to purchase life insurance and annuity contracts upon retirement.<sup>14</sup> To bring such plans into compliance with Norris, payments derived from contributions made after August 1, 1983, must be based on gender-neutral mortality tables; that is, payments for men and women must be equalized.

The Montana Ex Officio Commissioner of Insurance, State Auditor E. V. "Sonny" Omholt, has adopted administrative rules to regulate compliance with the Norris decision.<sup>15</sup> Under the permanent rules, any life insurance policy offered under an employer-sponsored retirement benefit program must use mortality tables that are a blend of authorized male and female tables or use only the authorized male table.

The Pennsylvania Supreme Court ruled in September 1984 that the state's Equal Rights Amendment prohibits insurance companies from basing automobile rates on gender.<sup>16</sup> The Pennsylvania Insurance Commissioner had used the ERA as an aid in interpreting his powers and duties under the Rate Act, 40 P.L. 1181-1199, to disapprove the use of gender as a classification basis for auto insurance rate differentials. Montana and 14 other states have an equal rights amendment similar to Pennsylvania's.





REFERENCE NOTES

<sup>1</sup>Chapter 531, Laws of 1983; §49-2-309, MCA.

<sup>2</sup>Article II, Section 31, and Article XIII, Section 1 of the 1972 Montana Constitution.

<sup>3</sup>Article II, Section 4 of the 1972 Montana Constitution.

<sup>4</sup>Montana House of Representatives, House Judiciary Committee, Minutes, January 28, 1983, and Montana Senate, Business and Industry Committee, Minutes, March 19, 1983.

<sup>5</sup>For details on legislation in the four states see: Montana Legislative Council, "An Update on Legislation Prohibiting Gender Discrimination in Insurance and Pension Plans," A Report for Joint Interim Subcommittee No. 3, August 1984.

<sup>6</sup>Shavers v. Kelley, 267 N.W. 2nd 72 (1978).

<sup>7</sup>Francis K. Wallace, Unisex Auto Rating: The Michigan Experience, draft report prepared in cooperation with the Michigan Insurance Bureau, Lansing, Michigan, 1984.

<sup>8</sup>Minnesota Department of Commerce, Should Gender Be Used as an Insurance Rating Variable?, St. Paul, Minnesota, June 1984.

<sup>9</sup>Arizona Governing Committee v. Norris, 103 S.Ct. 3492 (1983).

<sup>10</sup>Ibid.

<sup>11</sup>Los Angeles Dept. of Water and Power v. Manhart, 435 U.S. 702 (1978).

<sup>12</sup>"Shift to Unisex Easier Than Feared," Los Angeles Times, 24 July 1983, part V, p. 3.

<sup>13</sup>Telephone conversation with Larry Nachtsheim, Administrator, Public Employees' Retirement Division, Montana Department of Administration, November 1, 1983, Helena, Montana.

<sup>14</sup>Title 19, chapter 2, parts 1 and 2, MCA.

<sup>15</sup>Administrative Rules of Montana, 6.6.1801, ARM.

<sup>16</sup>Hartford Accident & Indemnity Co. v. Insurance Commissioner, Docket No. J-76-1984, (Pa. Sup.Ct. 1984).

## Subcommittee Deliberations

The following chronology is designed to highlight the steps of the study process, acknowledge major testimony, list the reports presented to Joint Interim Subcommittee No. 3, and document Subcommittee action on the study issues. Reports and testimony are numbered to correspond to the reference list on page 21. All reports, written testimony, and minutes are on file at the Montana Legislative Council.

### I. First Meeting -- September 16, 1983

- A. Subcommittee staff presented a draft study plan for HJR 29.<sup>1</sup> The adopted plan proposed the monitoring of federal and other states' legislation and concentration on the effects of HB 358 for Montana insurance consumers.

### II. Second Meeting -- January 12, 1984

- A. Staff presented a report on "Legislation and Litigation on Sex Discrimination in Insurance and Retirement Plans."<sup>2</sup> The report tracked the federal legislation, legislation in other states, recent court decisions, and opinions by the opponents and proponents of gender discrimination in insurance rating.
- B. The Subcommittee requested that, at a future public hearing on this issue, qualified representatives of the insurance industry present evidence of the costs to consumers under gender-equal insurance rates. Staff reported that both the insurance industry and

various national women's advocacy groups had submitted studies on the effects of the federal and Montana legislation.<sup>3</sup>

### III. Fifth Meeting -- September 6, 1984

- A. Staff reviewed an update report on: the status of the federal legislation; recent legislative efforts in other states; the conclusions from the Minnesota Department of Commerce report; and the mandate for unisex automobile insurance rates in Hawaii, Massachusetts, North Carolina, and Michigan.<sup>4</sup>
- B. The Subcommittee held a public hearing on the consequences of HB 358. Following is a summary of major testimony:

Ed Zimmerman, American Council of Life Insurance: Life insurance companies have attempted to match the price of insurance to the risk involved, thus women are charged less than men because they live longer. A study indicates that women's lifestyles do not account for the longevity as much as does the immutable fact of gender. Risk classification is based on sound actuarial principles that do not involve social or economic stereotyping; women pay less because claim experience shows they should pay less.

Ninety-five percent of the working population receives pension and life insurance benefits through the workplace, and those benefits

must be equal for men and women. Also, 85% of the population receives health insurance coverage through employment, and those rates and benefits are equal for men and women. A serious market disruption might occur if HB 358 is enacted. Companies will not be able to be as competitive, and consumers will suffer. There may be problems with policies purchased in other states or persons going out of state to buy policies.<sup>5</sup>

Mavis Walters, Insurance Services Office: If HB 358 is enacted, a 23-year-old married woman driving to work in Helena might pay from \$58 to \$373 more in premiums under the new law. A 1983 survey showed that 80% of American women disapproved of unisex insurance.

Miles driven don't explain why women have lower risks of accidents because if this were true, both men and women who drive the identical number of miles would have the same probability of having an accident. Unisex rates would force young low-risk female drivers to subsidize high-risk young male drivers. The present system is socially neutral, and it was hard to see how raising women's rates could advance the civil rights of women.

Age is a strong factor in auto insurance rating because young drivers are high-risk; however, gender factors permit an advantage for the lower-risk young women drivers. The

number of miles driven is an unreliable factor to use because it is unverifiable.<sup>6</sup>

Judy Mintel, State Farm Auto Insurance: This is an economic issue rather than a civil rights issue. State Farm predicts the average auto rates for women will increase by \$100 a year. (Ms. Mintel distributed tables showing the rate increases for women in several Montana cities.)<sup>7</sup>

Pam Campbell, Women's Lobbyist Fund: Categorizing by gender is inaccurate and discriminatory. Actuarial differences based on race and religion are greater than differences between the sexes, and yet it is socially unacceptable and illegal to use race and religion groupings. Eighty-four percent of all women do not outlive male counterparts, yet all women are being penalized for the 16% who do. With more appropriate groupings, the total cost of insurance should remain the same because the total losses would be the same.

Over a lifetime, on the average, women pay \$6,000 more for medical benefits, excluding maternity benefits. They pay \$4,800 more for disability insurance and \$5,800 more for life insurance pension benefits.<sup>8</sup>

Jan Jamruszka-Wilson, Women's Lobbyist Fund: Women who are single heads of households pay 1/3 to 2/3 more for health insurance than do male heads of households; also, the women's

dependents must pay more. Women's jobs often don't provide health insurance benefits.

Don Garrity, Helena Attorney: (Mr. Garrity explained that he was asked by Montana insurance lobbyists to develop an independent opinion on the constitutionality of gender discrimination in insurance.) To literally apply the Individual Dignity clause of the Montana Constitution in every instance would be in violation of the U.S. Constitution.

In the many cases involving Article II, Section 4, which the Montana Supreme Court has decided since the adoption of Montana's 1972 Constitution, it has consistently used traditional federal "equal protection" analysis, which allows discriminatory government action when it is based on a rational classification. It is one opinion that Article II, Section 4, of the Montana Constitution applies only to "state action", not purely private discrimination, and that classifications based on sex are not prohibited thereby if there is a rational basis for such classification.<sup>9</sup>

#### IV. Seventh Meeting -- November 15, 1984

- A. The Subcommittee considered the following draft bills:

LC 137, a repealer of 49-2-303, MCA, the prohibition on discrimination in insurance

practices on the basis of sex and marital status (HB 358); and

LC 138, providing for the following exclusions: to exclude the offer of coverage for pregnancy or childbirth; to exempt insurance policies and retirement plans purchased by a person prior to becoming a Montana resident; to exempt insurance policies and retirement plans performed by a person who is a Montana resident for a person who is not a resident of Montana; and to require compliance for any insurance policy or retirement plan issued to a person who is a resident of Montana at the time of issuance.

- B. Greg Petesch, staff attorney, presented an opinion on whether enactment of HB 358 was mandatory in light of the Individual Dignity clause of the Montana Constitution and whether repeal of the legislation would make the current practice of considering gender in insurance classifications unconstitutional. Mr. Petesch pointed out that even though the Constitutional Convention may have envisioned legislative implementation of the "equal rights provision", it is the Legislature's prerogative to enact clarifying legislation. He reasoned that the Montana Supreme Court probably wouldn't expand on its existing philosophy that the state's equal rights amendment is no broader than the federal equal rights amendment.<sup>10</sup>



- C. Karen Zollman, Women's Lobbyist Fund, told the Subcommittee that her organization supports the elimination of gender-based rating in all lines of insurance. The organization felt the amendments were unnecessary and that the amendment excluding maternity benefits was very discriminatory.<sup>11</sup>
- D. Pat Butler, National Organization for Women, presented information on the economic inequalities for women as a result of current insurance practices.
- E. Rita Thiesen, Health Association of America, told the Subcommittee that when maternity benefits were mandated for every health policy in New York state, many companies left that market. She felt that the other amendments did not completely clarify the problem of "grandfathering" policies purchased prior to becoming a Montana resident.
- F. The Subcommittee tabled both LC 137 and LC 138. Prior to tabling, LC 138 was amended to clarify that a Montana company could sell a policy with gender-based rates to a nonresident.



Reports and Testimony Referenced in Deliberations

<sup>1</sup>Montana Legislative Council, "Study Plan for HJR 29: A Study of the Insurance Laws of Montana," staff report by Andrea Merrill for Joint Interim Subcommittee No. 3, August 1983.

<sup>2</sup>Montana Legislative Council, "Legislation and Litigation on Sex Discrimination in Insurance and Retirement Plans: A Progress Report," staff report by Andrea Merrill for Joint Interim Subcommittee No. 3, December 1983.

<sup>3</sup>Reports submitted by insurance industry and women's advocacy groups are on file with the study papers on HJR 29, Montana Legislative Council.

<sup>4</sup>Montana Legislative Council, "An Update on Legislation Prohibiting Gender Discrimination in Insurance and Pension Plans," staff report by Andrea Merrill for Joint Interim Subcommittee No. 3, August 1984.

<sup>5</sup>Written testimony attached to minutes of the September 6, 1984, Subcommittee meeting.

<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

<sup>10</sup>Montana Legislative Council, "Gender-Based Insurance Classifications," report by Greg Petesch, staff attorney for Joint Interim Subcommittee No. 3, October 1984.

<sup>11</sup>Written testimony attached to minutes of the November 15, 1984, meeting.



ENFORCEMENT OF THE MOTOR VEHICLE  
LIABILITY INSURANCE LAW

Introduction

House Joint Resolution 29 requested an examination of "alternative mechanisms to enforce the mandatory motor vehicle liability coverage laws" of Montana. In response to this study mandate, this report will provide:

- a legislative history of the liability law;
- details of the provisions in the law;
- related Montana laws;
- legislative approaches in other states;
- a summary of testimony on the feasibility of various enforcement programs; and
- a summary of Subcommittee deliberations and actions on this study question.

Legislative History

In the decade before the 1979 enactment of the mandatory motor vehicle liability insurance law, the Montana Legislature wrestled with numerous approaches to providing monetary protection for persons who suffer losses as a result of the negligence of uninsured drivers. A 1972 Legislative Council interim study on the feasibility of no-fault insurance in Montana resulted in a comprehensive motor vehicle insurance

reform bill (SB 38) that was vigorously debated throughout the 1973 legislative session.<sup>1</sup> That legislation was restudied as a holdover bill in the 1973 interim and was finally killed early in the 1974 session. Legislation mandating no-fault and vehicle liability insurance was rejected in subsequent sessions as too complex and costly to administer.

Eventually, the 1979 Legislature enacted House Bill 708 (Ch. 592, L. 1979) requiring every owner of a motor vehicle registered and operated in Montana to have automobile liability insurance. The legislation was modeled after Idaho statutes and was designed to conform to existing Montana financial responsibility laws. See page 28 on related laws.

## Main Provisions of the Mandatory Insurance Law

The provisions of the Montana motor vehicle liability insurance law are as follows, with notations on legislative amendments since 1979. Comments on enforcement problems related to each section are also included.

1. Section 61-6-301, MCA, Required motor vehicle insurance. Every owner of a motor vehicle that is registered and operated in Montana, unless exempt as provided in 61-6-303, MCA, must:
  - (a) continuously maintain motor vehicle liability insurance, as defined in 61-6-103, MCA; or
  - (b) obtain a certificate of self-insurance issued by the Motor Vehicle Division, Department of Justice; or
  - (c) post an indemnity bond with the Division in lieu of insurance.
  
2. Section 61-6-103, MCA, Motor vehicle liability policy defined. The liability coverage must be in an amount not less than:
  - (a) \$25,000 because of bodily injury or death of one person in an accident;
  - (b) \$50,000 because of bodily injury or death of two or more persons in an accident;
  - (c) \$5,000 because of injury to or destruction of property of others in an accident.

3. Section 61-6-303, MCA, Exempt vehicles. The following vehicles are exempt:

- (a) implements of husbandry;
- (b) special mobile equipment;
- (c) motorcycles;
- (d) mopeds;
- (e) prorated commercial vehicles; and
- (f) government-owned vehicles.

Testimony from Larry Majerus, Administrator of the Motor Vehicle Division, Montana Department of Justice, suggested that better definitions of exempt vehicles could clarify this section.

4. Section 61-6-302, MCA, Proof of compliance.

- (a) An owner must sign, at the time of vehicle registration, a certification that he possesses liability insurance as required in 61-6-301, MCA. The law originally required a display of proof to the county treasurer, such as an insurance policy, insurance identification card, certificate of self-insurance, or eligibility for an exemption. County treasurers complained that satisfactory performance of this function was time-consuming and confusing. The 1981 Legislature removed that requirement and replaced it with self-certification and a



penalty for intentional falsification of the self-certification. The penalty, as provided in 45-7-203, MCA, is a fine of \$500 or 6 months in jail. (Ch. 409, L. 1981.) According to the Motor Vehicle Division, no one has been convicted of this violation.

(b) A 1981 legislative amendment to the law (Ch. 409, L. 1981) provided that every operator of a motor vehicle must carry an insurance card in the vehicle as proof of compliance and must exhibit the proof upon demand to a peace officer, highway patrolman, or justice of the peace. Law enforcement officers have been encouraged to routinely check for proof of insurance when apprehending persons for traffic violations.

(c) That amendment further provided that a person could not be convicted of violating this requirement if he produced valid proof to the court or to the office of the arresting officer that insurance was in place at the time of citation.

(d) Another 1981 legislative amendment (Ch. 614, L. 1981) provided that those owners who wish to register their vehicles by mail must sign a statement of compliance (self-certification) on the registration application.

5. Section 61-6-304, MCA. Penalties. It is unlawful to operate a motor vehicle in Montana without insurance as required by 61-6-301, MCA. A violation of 61-6-301 through 61-6-304, MCA, is a

misdemeanor punishable by a fine of not more than \$250. A 1981 amendment (Ch. 409, L. 1981) imposed this higher fine over the legislation's original \$25 fine. Information available to the Motor Vehicle Division suggests that if the person provides the court with proof of current insurance, the fine is either suspended or set at \$50 for a first conviction and up to \$250 for a second conviction.

#### Related Laws

The mandatory liability insurance law was designed to mesh with the state's financial responsibility laws in effect since 1951. That legislation has also been known as the Motor Vehicle Safety-Responsibility Act (61-6-101 through 61-6-151, MCA). While the mandatory insurance law affects motorists in general, the financial responsibility laws apply to any motorist who has had his license revoked as a result of his driving record or who has an unsatisfied judgment against him for damages arising out of a past automobile accident.

A person whose license has been revoked must provide proof of financial responsibility in order to be relicensed and must maintain such proof for 3 years or face suspension of his license. To satisfy proof of financial responsibility for future liability, a person must file with the Motor Vehicle Division:

- (a) a written certificate from his insurance company that a motor vehicle liability policy that meets the statutory requirements is in effect; or

- (b) an indemnity bond conditioned for payments in the same amount as required in a motor vehicle liability policy; or
- (c) a certificate from the state treasurer that the person has deposited \$11,000 in cash or securities (The Motor Vehicle Division suggests that this amount be set higher. Only a few persons use this option); or
- (d) a certificate of self-insurance as approved by the Division on the grounds of ability to pay any future judgments.

Under the financial responsibility laws, the Motor Vehicle Division must suspend the license of a person who is reported by the courts to have an unsatisfied judgment against him for damages in a vehicle accident. The suspension continues until the person satisfies the judgment and shows proof of compliance with the mandatory motor vehicle insurance laws (61-6-301 and 61-6-302, MCA). The maximum period of suspension is 6 years from the judgment date; in order for the person to have his license reinstated at that time, he must show proof of insurance.

The Act also provides for an "assigned risk plan" in which all insurance companies in the state authorized to issue automobile liability policies must participate. The Commissioner of Insurance approves a plan for the equitable apportionment among such companies of applicants who need liability insurance but are unable to procure policies through ordinary methods. From July to December of 1982, 55 unsatisfied judgments were reported to the Motor Vehicle Division. In 1983, there

were 138 reports and suspensions. As of August 1984, the courts reported 70 unsatisfied judgments.

Another related law (33-23-201, MCA) provides that all motor vehicle liability policies issued in the state must include uninsured motorist coverage in the limits for bodily injury or death as set forth in 61-6-103, MCA. If a negligent party has no liability insurance and no appreciable assets, uninsured motorist coverage will enable the innocent accident victim to recover personal damages. Coverage for property damage is not mandated. The insured has the right to reject uninsured motorist coverage. This statute was enacted in 1967.

#### An Overview of Liability Laws in Other States

Massachusetts enacted the first mandatory auto liability insurance law in 1927, and since that time, 33 states have followed suit. The common characteristic of mandatory insurance laws in the states is that motor vehicles will not be registered unless the application for registration is accompanied by proof or certification of ability to respond in damages up to certain limits for bodily injury, death, and property damage.

In 15 states, compulsory liability insurance laws coexist with no-fault insurance laws.<sup>2</sup> Under no-fault plans, the owner of the vehicle looks to his own insurance company for reimbursement for damages sustained in an accident rather than having to go to court to prove that the other party caused the accident. Most plans cover only bodily injury and not vehicle damage. The plans generally specify a

"threshold" amount below which tort suits for general damages are barred; damages beyond the threshold amount may be recovered in court. States with no-fault insurance laws need mandatory liability insurance provisions because no-fault beneficiaries may have to exercise their right to sue negligent parties when threshold levels are reached in instances of serious injury.

Several states have experimented with a motorist and pedestrian protection law termed "unsatisfied judgment funds". In 1947, North Dakota followed the example of the Canadian Provinces in establishing an unsatisfied judgment fund for those accident victims who are unable to collect judgments from an at-fault uninsured motorist. Reparations from the fund are limited to \$10,000 per bodily injury from an accident and are available to state residents only. Claimants are paid from the fund only after they are unable to collect from other resources of the judgment debtor. The judgment debtor is liable to repay the fund. His driving and registration rights may be suspended until such time as he repays the fund with interest. The state-operated fund is supported by a \$1 fee paid by all motor vehicle registrants. The fee is not collected every year, but only when the fund falls below the anticipated level of need. Last year was the first collection year in 5 years. There have been only six or seven claimants per year in the last few years. This is due to North Dakota's mandate that no liability policy can be delivered without inclusion of uninsured motorist coverage. Many of the claimants have been pedestrians or victims of hit-and-run accidents.<sup>3</sup>

## Enforcement Methods of Other States

Many of the states with mandatory liability insurance laws require the insurer to notify the state, within a specified number of days, whenever a policyholder cancels or fails to renew a required liability insurance policy. Upon receipt of such notification, the state acts to revoke or suspend the vehicle owner's operating license or registration plates unless satisfactory proof of insurance is shown. In some cases, the state notifies the vehicle owner that, within a certain number of days, the owner's license and/or registration will be suspended unless proof of required insurance is filed with the state. In other states, the registration is automatically suspended when the state is notified of the vehicle owner's insurance termination. Several states charge a fee ranging from \$25 to \$60 to reinstate registration after proof of insurance is filed.

The types of provisions mentioned above are often criticized by insurance companies as inefficient means of enforcing the mandatory insurance laws. These provisions are also criticized by responsible, insured motorists as undue harassment by a state authority. Problems occur when cancellation notices and owners' premium payments cross in the mail. The insured vehicle owner who has paid his premium or changed companies often disregards the state's notification of suspension because he fails to realize that he is still required to submit insurance proof to the state. The process of notification of insurance termination and subsequent suspensions of license or registration can be a costly state enforcement program.

The trend in state mandatory vehicle liability insurance laws is away from cumbersome state and insurance company recordkeeping and toward a system like Montana's of self-certification at registration time and keeping valid insurance proof in the vehicle for submission to law enforcement officers.

In 1982, Oklahoma strengthened its compulsory liability insurance law by requiring insurance companies to provide to policyholders two copies of an "Owner Security (Liability) Verification Form."<sup>4</sup> One copy is surrendered in order to register the insured vehicle; the other copy must be carried in the vehicle at all times for inspection purposes by law enforcement officers or persons affected by a collision. Failure to carry the form in the vehicle is a misdemeanor with a fine of \$250 and/or 30 days in jail, plus suspension of license and registration until proof of insurance for 6 months is acquired. The Oklahoma Department of Public Safety charges a \$35 reinstatement fee to recover a license suspended under this law. Since the compulsory insurance requirement applies equally to both the owner and the driver, operators are encouraged to protect themselves by carrying an "Operator's Security Verification Form", which is issued optionally by insurance companies. Insurance companies are mandated to report any lapse of a policy, but most have not cooperated with that enforcement mechanism.<sup>5</sup>

#### Random Sampling as an Enforcement Mechanism

The Oregon mandatory motor vehicle liability insurance law enacted in 1979 also pioneered a random sample program to verify the possession of such insurance.<sup>6</sup> The Nevada Legislature required such a program in 1981,

and in 1983 New Mexico approved a program based on the Oregon model.

In all three states, the Motor Vehicle Division (MVD) requests proof of insurance from the selected vehicle owner. When the required information is returned, it is forwarded to the named insurance company for verification. The company responds to the MVD only if the vehicle owner is not currently insured. Upon such notification or failure to respond to verification requests, the MVD warns the owner by certified mail of the impending suspension of registration and license plates (Nevada, New Mexico), or driving privileges (Oregon). In Nevada and New Mexico, if there is no response, the suspension is automatic, and the owner must surrender the registration and plates. Law enforcement officers are notified to collect those items from the owner. This step of the procedure has not been all that successful as an enforcement measure. However, the owner must, at some point, pay a reinstatement fee of \$50 to reregister the vehicle.

The New Mexico MVD has sampled approximately 12,000 vehicle owners a month (1% of the registered owners) since the program began in January 1984. In 7 months, the MVD invoked 6,000 suspensions and followed up with 2,000 orders to collect plates and registrations. The Legislature appropriated \$450,000 for program initiation. The figure includes \$108,000 for computer time and programming and the remainder for nine full-time employees (FTEs) and the cost of postage.<sup>7</sup>

The Nevada random sample program started as a manual system with four FTEs to handle under 10% of the



registered vehicles a year (as mandated by the Legislature). The reinstatement fees cover the cost of the program. Prior to program initiation in 1981, a survey of accident reports showed that 24% of those vehicles were uninsured. So far in 1984, the random sample system indicates that 9% are still uninsured.<sup>8</sup>

The Oregon random sampling system produces about 900 suspensions a year. The MVD collected approximately \$10,000 in reinstatement fees in 1983 to offset the total program cost of \$25,000. Since the system is highly automated, only 1.5 FTEs are involved.<sup>9</sup>



SUBCOMMITTEE DELIBERATIONS

I. Second Meeting -- January 12, 1984

- A. Staff presented a report on the mandatory motor vehicle liability insurance laws in Montana and other states.<sup>10</sup>
  
- B. Larry Majerus, Administrator, Motor Vehicle Division, Department of Justice, reported on the enforcement difficulties that have been encountered with the law. A study has been conducted to determine what the cost would be to require a filing of proof of future financial responsibility from anyone convicted of operating a vehicle without insurance. In 1983, there were approximately 8,000 such convictions. Processing that many filings would take six additional FTEs, plus other expenses, for a total program cost of \$96,000 a year. Mr. Majerus suggested that a driver's license reinstatement fee might cover some of the costs.

Mr. Majerus said that as many as 25% of Montana vehicles may be uninsured, but many of those are uninsured periodically because of seasonal use. He noted that it is important to consider the consequences to the law-abiding public when enforcing the law to target offenders.

II. Fifth Meeting -- September 6, 1984

- A. Staff presented a follow-up report on the costs and feasibility of various enforcement mechanisms, including random sampling for verification of insurance.<sup>11</sup>
- B. The Subcommittee requested a draft bill to provide for random sampling as an enforcement tool as modeled after the Oregon and Nevada programs.

III. Sixth Meeting -- November 15, 1984

- A. The Subcommittee discussed LC 143, an act to allow the Motor Vehicle Division to select on a random sample basis not more than 10% of the motor vehicles registered in Montana for verification of liability insurance.
- B. Larry Majerus, MVD, submitted a fiscal note on the cost of the random sampling program and suspension of vehicle registration and license plates.<sup>12</sup> The program would require five FTEs at \$53,614, \$38,000 for postage, a hearing officer, and a toll-free 800 telephone number for questions and complaints, for a total program cost of \$115,317.

With up to 800,000 vehicles in Montana, as many as 6,000 owners would be sampled each month. Information from Oregon suggests that as many as 1,500 suspensions would result, and highway patrol officers would be required

to retrieve the registration and plates. This method of enforcement may not work as well in Montana because the plates stay with the owner and not the vehicle, and flagging offenders at registration time would be difficult. The cost of a promotional program was not included in the fiscal note but would be essential to successful enforcement. A reinstatement fee of \$50 could cover a portion of the costs.

- C. The Subcommittee voted to table LC 143.
  
- D. The Subcommittee concluded that a large part of the enforcement problem appeared to be the need for law enforcement officers to more consistently request proof of insurance when ticketing persons for other offenses. Mr. Majerus offered to transmit that Subcommittee concern to the captains of the highway patrol. Mr. Majerus' communication on this subject is included in Appendix D.
  
- E. As an encouragement to increased enforcement of the law, the Subcommittee requested a draft bill to dedicate to the highway patrol retirement pension trust fund 10% of the fines and forfeitures collected for failure to have liability insurance. The Subcommittee approved this draft legislation by ballot through the mail. See Appendix E.



REFERENCE NOTES

<sup>1</sup>Montana Legislative Council, Insurance Reform, Report No. 32 to the 43rd Legislative Assembly, Helena, Montana, 1972.

<sup>2</sup>American Insurance Association, Summary of Selected State Laws and Regulations Relating to Automobile Insurance, (New York: American Insurance Association, 1983).

<sup>3</sup>Telephone conversation with Greg Morris, North Dakota Motor Vehicle Division, Bismarck, North Dakota, August 6, 1984.

<sup>4</sup>Oklahoma Department of Public Safety, Compulsory Liability Insurance Law for Motor Vehicles, revised, Oklahoma City, Oklahoma, August 19, 1983.

<sup>5</sup>Telephone conversation with Tom Johnson, Oklahoma Motor Vehicle Division, Oklahoma City, Oklahoma, August 6, 1984.

<sup>6</sup>Oregon Motor Vehicles Division, Oregon's Data Processing Random Sample Procedure, Salem, Oregon, November 1981.

<sup>7</sup>Telephone conversation with Charlotte Valdez, New Mexico Division of Motor Vehicles, Transportation Department, Santa Fe, New Mexico, August 3, 1984.

<sup>8</sup>Telephone conversation with Hale Bennett, Nevada Department of Motor Vehicles, Carson City, Nevada, August 3, 1984.

<sup>9</sup>Telephone conversation with Sandy Armenakis, Oregon Motor Vehicles Division, Salem, Oregon, August 2, 1984.

<sup>10</sup>Montana Legislative Council, "Mandatory Motor Vehicle Liability Insurance Laws in Montana and Other States", staff report by Andrea Merrill for Joint Interim Subcommittee No. 3, December 1983.

<sup>11</sup>Montana Legislative Council, "Enforcement of the Mandatory Motor Vehicle Liability Laws in Other States", staff report by Andrea Merrill for Joint Interim Subcommittee No. 3, August 1984.

<sup>12</sup>Testimony submitted by Larry Majerus, Motor Vehicle Division, Montana Department of Justice, November 1984.



1 HOUSE BILL NO. 358

2 INTRODUCED BY J. BROWN, YARDLEY,

3 J. JENSEN, VELEBER, ADDY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT  
6 DISCRIMINATION ON THE BASIS OF SEX OR MARITAL STATUS IN THE  
7 ISSUANCE OR OPERATION OF INSURANCE POLICIES AND RETIREMENT  
8 PLANS, AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY  
9 CLAUSE."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Discrimination in insurance and retirement  
13 plans. It is an unlawful discriminatory practice for any  
14 financial institution or person to discriminate solely on  
15 the basis of sex or marital status in the issuance or  
16 operation of any type of insurance policy, plan, or coverage  
17 or in any pension or retirement plan, program, or coverage,  
18 including discrimination in regard to rates or premiums and  
19 payments or benefits.

20 Section 2. Codification instruction. Section 1 is  
21 intended to be codified as an integral part of Title 49,  
22 chapter 2, part 3, and the provisions of Title 49 apply to  
23 section 1.

24 SECTION 3. APPLICABILITY. THIS ACT DOES NOT APPLY TO  
25 ANY INSURANCE POLICY, PLAN, COVERAGE, OR ANY PENSION OR

1 RETIREMENT PLAN, PROGRAM, OR COVERAGE IN EFFECT PRIOR TO  
2 OCTOBER 1, 1985.

3 SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE MAY  
4 OCTOBER 1, 1985.

-End-



## APPENDIX B

### Conclusions from "Unisex Auto Rating: The Michigan Experience"

The Michigan Insurance Bureau recently published a follow-up report on the effects of unisex auto insurance rating mandated in 1981 in that state. The study used statistics from 1976 to 1981 collected by the National Association of Independent Insurers, which compiles premium and loss information on approximately 80% of the auto insurance business in Michigan.

The report offers the following conclusions:

1. Unisex pricing did not affect over 80% of Michigan's drivers. The impact was restricted mainly to drivers under age 25.
2. Unisex rates for young drivers caused moderate increases in average premiums for young women (20.9%) and moderate decreases in average premiums for young men (15.1%). However, these averages do not take into account the effects of rate surcharges that are based on driving records. Since young single men have more convictions, violations, and accidents, it is likely that the actual decrease for most young men was less than the 15.1%.
3. The data did not reveal the effect of inflation on these percentage changes. The adult rate rose just over 4% from 1980 to 1981.

4. The changes to unisex rating did not cause a disproportionate number of young men without bad driving records to be denied insurance in the voluntary market.
5. The premium effects of eliminating marital status as a rating factor were far larger than the unisex effects, but the number of both young men and young women affected is quite small.
6. The public seems to find it reasonable and fair to base rates on a driver's actual performance instead of gender. The Bureau received only four complaint letters from 1981 to 1983 concerning the increased rates for young women.
7. Michigan's experience with unisex auto rating, while unique in some respects, is evidence that gender can be successfully eliminated as a rating factor without the dire consequences that some have predicted.

## APPENDIX C

### Conclusions from Minnesota Department of Commerce Study on Unisex Insurance

The study offers the following conclusions, first from a social policy perspective and finally from an economic standpoint:

1. Gender has become a socially unacceptable means of grouping people for business purposes. The fact that women have historically experienced negative treatment because of their gender makes any differential treatment suspect.
2. For many lines of insurance, the following social policy objectives outweigh the relevant insurance principles: economic equity in the case of pensions; accessibility in the case of health insurance; and affordability in the case of auto insurance.
3. The neutrality of the data from which gender-distinct rates are developed has been subject to considerable criticism and debate. The data may reflect discriminatory practices and, if so, should not be used to price insurance.
4. Classification decisions are strongly influenced by marketing considerations, not only objective measures of cost. As a result, risk classification requires exercise of judgment that may incorporate the beliefs and prejudices of the insurer and of society. In a society where gender prejudice and stereotypes are common, such decisions may often be a detriment to women.

5. Given the current operation of the insurance system and the distribution of group and individually purchased insurance, many women will pay more for insurance if rates are gender-equal, while others will pay less. They will pay less for disability and individual annuities, but many will pay more for auto and life insurance. The effect on health insurance costs for women under 40 depends upon whether maternity benefits are mandated. Mandated maternity benefits could result in higher costs for individual health insurance for younger women and would reduce the cost decrease for disability insurance.
6. The overall cost impact on women cannot be estimated with precision. It is not known, for example, to what extent insurers can and will substitute other rating variables which may diminish the impact of gender-equal rates. The estimates of the American Academy of Actuaries can be viewed as being overstated.
7. Cost increases are likely to be mitigated by several factors. In auto insurance, rates may increase more for the youngest women whose insurance is paid for by parents, reducing the impact on women between the ages of 21 and 24. Insurers may substitute new rating factors which will have the effect of women being charged less than men.
8. The economic impact on individual women will vary significantly depending on their particular circumstances.

9. The overall costs of insurance to all consumers may increase. There will be increased one-time administrative costs for establishing new rates, amending insurance policies and contracts, and restructuring the classification system. Rates for individual types of insurance may, as a result, be set closer to the higher-rated gender under the current gender-distinct pricing system.
10. Some degree of unintended and undesirable effects on the insurance marketplace and insurance availability may arise. Insurers may try to market insurance to the perceived overpriced risks and will be more resistant to selling insurance to risks which they believe are underpriced. Young men, for example, may find it more difficult to purchase auto insurance, while young women may find individual health insurance harder to purchase.
11. The women most affected by the changes in cost will be women living alone and women who are single heads of households. These women are more likely to be poor and/or members of minority groups than women from other households.
12. Many of the economic and social issues raised by the debate are not addressed by eliminating gender-distinct insurance rates. Women's relative inability to afford adequate coverage, inadequate health insurance coverage, lack of insurance coverage for part-time employees, and poor pension coverage are some examples. Although reflected by the insurance system in various ways, these important concerns of women may be more effectively addressed by other means.





APPENDIX D

December 7, 1984

Senator J. Donald Ochsner  
Chairman, Sub-Committee on Insurance  
Joint Interim Committee Number 3  
Broadus Route  
Miles City, Montana 59301

Dear Senator Ochsner:

Pursuant to the November 15, 1984 evening meeting of the Joint Interim Committee Number 3, I was invited by Colonel R. W. Landon to discuss with Highway Patrol captains your committee's direction on strict enforcement of the mandatory motor vehicle liability insurance laws.

They informed me that it is now standard procedure for officers to check registration and insurance cards. As an indication, over 4,400 drivers were cited by the Patrol so far this year. In addition, about the same number of warnings were issued.

They did feel clarification of the present law would assist with the enforcement, and I have drafted such clarification.

I realize the difficulty in making a mandatory insurance effective and enforceable. Extensive methods of enforcement are often expensive and too frequently aimed at those who are in compliance with the law.

I enjoyed working with you and your sub-committee these past couple of years and appreciate the courtesies extended to me.

Yours truly,

Larry G. Majerus  
Administrator  
Motor Vehicle Division

LGM:cco

xc: Andrea Merrill ✓  
Representative Ted Neuman



\_\_\_\_\_ BILL NO. \_\_\_\_\_

1  
2 INTRODUCED BY \_\_\_\_\_

3 BY REQUEST OF JOINT INTERIM SUBCOMMITTEE NO. 3

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE TO THE  
6 HIGHWAY PATROLMEN'S RETIREMENT PENSION TRUST FUND 10 PERCENT  
7 OF ALL FINES AND FORFEITURES COLLECTED AS A RESULT OF  
8 CITATIONS BY HIGHWAY PATROLMEN FOR VIOLATION OF THE  
9 MANDATORY MOTOR VEHICLE LIABILITY INSURANCE LAW; AMENDING  
10 SECTIONS 19-6-401 AND 61-12-701, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 19-6-401, MCA, is amended to read:

14 "19-6-401. Payments into retirement fund. All  
15 appropriations made by the state, the portion of fines  
16 prescribed in 61-12-701(2), all contributions by members of  
17 the Montana highway patrol, in the amount hereinafter  
18 specified, and all interest on and increase of the  
19 investments and moneys under this account shall be paid to  
20 the state treasurer, who shall credit the payments to the  
21 Montana highway patrolmen's retirement pension trust fund."

22 Section 2. Section 61-12-701, MCA, is amended to read:

23 "61-12-701. Highway patrol -- disposition of fines and  
24 forfeitures. (1) All fines and forfeitures collected in any  
25 court from persons apprehended or arrested by patrolmen for

1 violation of the laws and regulations relating to the use of  
2 state highways and the operation of vehicles thereon must be  
3 paid to the state treasurer and by him credited to the  
4 general fund of the state, except as provided in subsection  
5 (2) and except for that portion of the fines otherwise  
6 allocated by law which shall be paid into the appropriate  
7 accounts in the state special revenue fund.

8 (2) Ten percent of all fines and forfeitures collected  
9 in any court as a result of citations issued by highway  
10 patrol officers for violations of 61-6-301 through 61-6-304  
11 must be paid into the highway patrolmen's retirement pension  
12 trust fund as provided in 19-6-401.

13 ~~(2)~~(3) At the time of payment of any such fine or  
14 forfeiture, there shall be filed with the state treasurer a  
15 complete statement showing the total of the fines or  
16 forfeitures received or incurred, which statement shall give  
17 the title of the court and cause and be subscribed to by the  
18 person or officer making the payments."

-End-





250 copies of this public document were published at an estimated cost of \$2.00 per copy, for a total cost of \$500.00, which includes \$500.00 for printing and \$.00 for distribution.